

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ROGER GOUSSE, SR.,)	
Petitioner)	
)	
v.)	C.A. No. 04-30251-MAP
)	
UNITED STATES OF AMERICA, ET AL,)	
Respondent)	

ORDER OF DISMISSAL

January 3, 2005

PONSOR, D.J.

The "movant," Roger Gousse, Sr., has brought this petition, purportedly pursuant to 28 U.S.C. § 2255. The petition appears to seek relief with regard to improprieties arising from the movant's convictions in the State of Connecticut. He is apparently being detained currently by the Immigration and Naturalization Service ("INS") at the Franklin County House of Correction in Greenfield, Massachusetts.

The petition must be dismissed for several reasons. First, § 2255 provides a remedy only for persons in custody pursuant to a conviction and sentence by a federal court. Second, this court cannot construe the petition as having been filed pursuant to 28 U.S.C. § 2254, which ordinarily may provide a remedy for constitutional violations in a state court that result in confinement. Section 2254 is unavailable because the movant here does not appear to suggest any

constitutional infirmity with regard to his current custody under the authority of the INS. Rather, he appears to object to convictions occurring in 1998 in the State of Connecticut. It would appear that the appropriate avenue to obtain a remedy with regard to these Connecticut proceedings would be with the Connecticut courts. No allegation of unconstitutional confinement taking place currently within this district has been offered.

This dismissal is without prejudice to re-filing and a new petition setting forth allegations sufficient to support a claim for remedy under 28 U.S.C. § 2254. This file, however, may now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge